

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

CASE NO.: 19-06869 CA (15)

DR. JAMES ERIC MCDONOUGH,

Plaintiff,

v.

CITY OF HOMESTEAD, a Florida
municipal corporation

Defendant.

/

CITY OF HOMESTEAD'S NOTICE OF FILING AFFIDAVITS

Defendant, City of Homestead, by and through undersigned counsel, hereby gives notice
of filing the following Affidavits:

1. Affidavit of Elizabeth Sewell dated March 27, 2019; and
2. Affidavit of Paula Carballosa dated March 28, 2019.

Respectfully submitted,

**WEISS SEROTA HELFMAN
COLE & BIERNAN, P.L.**
Attorneys for City of Homestead
200 East Broward Blvd., Suite 1900
Fort Lauderdale, FL 33301
Telephone: (954) 763-4242
Telecopier: (954) 764-7770

By: s/ Matthew H. Mandel
MATTHEW H. MANDEL
Florida Bar No. 147303
Primary: mmandel@wsh-law.com
Secondary: lbrewley@wsh-law.com

Defendant City of Homestead's
Notice of Filing Affidavits
Case No.: 19-06869 CA (15)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by E-mail via State E-portal and by U.S. Mail this 2nd day of April, 2019 to: **Dr. James Eric McDonough, pro se, 32320 SW 199th Ave, Homestead, FL 33030, Email: Phd2b05@gmail.com.**

s/ Matthew H. Mandel
MATTHEW H. MANDEL

1.

Affidavit of Elizabeth Sewell

IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT,
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

DR. JAMES ERIC MCDONOUGH,

CASE NO.: 19-06869 CA (15)

Plaintiff,

vs.

CITY OF HOMESTEAD,
a Florida municipal Corporation,

Defendant.

AFFIDAVIT OF ELIZABETH SEWELL

BEFORE ME, the undersigned authority, personally appeared Elizabeth Sewell, who, being first duly sworn, deposes and says:

1. My name is Elizabeth Sewell, I am *sui juris* and over 18 years of age and I make this Affidavit based upon my own personal knowledge.

2. I am City Clerk for the City of Homestead (“City”).

3. As part of my responsibilities, I am the designated records custodian pursuant to Chapter 119, Florida Statutes.

4. On February 18, 2019, at 6:45 p.m., Plaintiff, James McDonough, sent an email to me wherein he made a public records request to the City, which requested “all records, documents, leave slips, etc. ad infinitum related to any leave taken by Murguido between April 9th, 2013 and April 9th 2015. This includes sick leave, vacation leave, holiday leave, administrative leave and comp time.”

5. The following morning, on February 19, 2019, the City acknowledged receipt of Plaintiff’s request and forwarded the request to the Paula Carballosa, who is the point person within the City’s Police Department (“HPD”) responsible for handling public records requests for HPD records.

6. On Friday, March 8, 2019, Plaintiff served his petition for writ of mandamus on the City.

7. Prior to the filing of his lawsuit, Plaintiff did not provide me with written notice that the City had failed to produce the records responsive to Plaintiff's request.

8. Upon receipt of Plaintiff's petition for writ of mandamus, I followed up with Ms. Carballosa and she provided me with the reports attached as Exhibit "A" to the Affidavit of Ms. Carballosa.

9. At 11:15 a.m., on March 11, 2019, the City produced to Plaintiff the reports responsive to his public records request.

10. On March 12, 2019, Plaintiff filed his amended petition for writ of mandamus, which acknowledged that the City produced the reports responsive to his request.

11. Then, on March 13, 2019, Plaintiff sent an email to me, which stated, in relevant part, the following:

After reviewing the provided records, it is beyond certain that not all records which would be responsive to the request have been provided. Aside from the single page showing Murguido's request to attend an awards ceremony, what was provided is simply sheets of compiled data, from one system of one kind, which at a minimum itself would possess a "paper trail" or other records from which it was generated or created.

A copy of the March 13, 2019 email is attached hereto as **Exhibit "A"**.

12. Upon receipt of the email, I forwarded it to Ms. Carballosa and she responded by sending me a 153-page PDF file containing print outs from the City's electronic leave request system.

13. On March 15, 2019, the City produced to Plaintiff by providing Plaintiff with a Drop Box link to the 153-page PDF file containing print outs from the City's electronic leave request system. A copy of the March 15, 2019 email containing the link to the additional records is attached hereto as **Exhibit "B"**.

14. Subsequently, Ms. Carballosa provided me with an 11-page PDF document containing the reimbursement and payment records relating to Officer Murguido's leave to attend the Florida Law Enforcement Challenge Awards ceremony in 2014; and also advised me that there

are additional responsive records, in the form of doctors' notes required to substantiate requests for medical leave, which are confidential and exempt medical records.

15. On March 21, 2019, the City produced to Plaintiff an 11-page PDF document containing the reimbursement and payment records relating to Officer Murguido's leave to attend the Florida Law Enforcement Challenge Awards ceremony in 2014. The City also advised Plaintiff that additional responsive records, in the form of doctors' notes required to substantiate requests for medical leave, were being withheld as confidential and exempt medical records. A copy of the March 21, 2019 email is attached hereto as **Exhibit "C"**.

16. In response, Plaintiff sent an email on March 23, 2019, stating the following:

Sorry for not replying earlier to your response. I had to wait so as not to reply in anger. What is crystal clear is that you hold me in contempt, think I am mentally deficient, and treat me and others as such to your employer's detriment.

Twice now, after providing the first set of records after the filing of suit, you have provided additional records responsive to my 2/18/2019 records request. Yet, you have still failed to provided all responsive records.

For instance you claim that additional responsive records required to substantiate medical leave request are exempt under FS. 119 and HIPPA. I agree that doctor's notes and medical records are exempt. However, are you proposing Murguido took an entire month of workers comp leave and there is no incident report for this? He had to of gotten hurt at work to take a month off under workers comp correct? As Murguido has been in at least 8 to 9 accidents in police vehicles to my knowledge, and drives like a absolute maniac, it is assumed that Murguido was in yet another accident. If so hopefully his reckless driving only hurt himself this time and not others. Not sure of this maybe he slipped and fell, or got shot by a suspect, etc.

Regardless, the actual incident report of him being injured at work is not a medical record and should not be exempt. Yet, you have failed to provide this record(s) after three attempts to produce responsive records now. Is there a reason the incident report has not been provided to date? Will you be providing me with this record(s) voluntarily or will you make the Judge force you to?

Sadly, your non-compliance with statutory obligations has led to your employer being sued yet again. I must ask are you purposefully trying to increase the attorney fees, currently at least a quarter of a millions dollars, which the City is paying to defend non-compliance of your office with the Public Records Act?

Thank you for your time. I look forward to expeditiously receiving more records responsive to my 2/18/2019 request. Hopefully you will provide all the remaining responsive records to my request, but that is doubtful.

A copy of the March 23, 2019 email is attached hereto as **Exhibit “D”**.

17. Plaintiff subsequently sent another email on March 26, 2019 stating the following:

I have not heard back from you regarding the still unprovided responsive documents regarding the Worker's Comp leave Officer Alejandro Murguido took between February 7, 2014 and March 1, 2014. This would include at least: 1) The State Workers Comp reporting form which is required by the State; and 2) The City of Homestead Accident Report used to report accidents to human resources. Both of these are public records and should not be exempt. Please provide these records and any and all further records responsive to the February 18, 2019 records request immediately.

A copy of the March 26, 2019 email is attached hereto as **Exhibit “E”**.

18. Subsequently, Ms. Carballosa provided me with a PDF of an email chain from February 2014. In addition, the City's Finance Department provided me with four PDF documents reflecting emails from February and March 2014. Each of the emails relate to workers' comp leave taken by Officer Murguido in 2014. On March 26, 2019, the City produced to Plaintiff the five PDFs reflecting emails relating workers' comp leave taken by Officer Murguido in 2014. The City also advised Plaintiff medical records attached to one of the emails were being withheld as confidential and exempt. The March 26, 2019 email is attached hereto as **Exhibit “F”**.

19. The City further advised Plaintiff that the incident report(s), workers comp reports and accident reports referenced in Plaintiff's March 23, 2019, and March 26, 2019 emails were not part of the leave process and were not used to substantiate any requests for leave and that, therefore, such reports are not responsive to Plaintiff's February 18, 2019 request. *Id.*

20. All non-exempt, non-confidential records provided to me by Ms. Carballosa have been produced by the City to Plaintiff.

21. All non-exempt, non-confidential records provided to me by the City's finance department have been produced by the City to Plaintiff.

FURTHER AFFIANT SAYETH NAUGHT.

DATED this 27th day of March, 2019.

Elizabeth Sewell
ELIZABETH SEWELL

SWORN TO and subscribed before me by **ELIZABETH SEWELL** who is known by me
or has provided _____ as identification, this 27th day of
March, 2019.



NOTARY PUBLIC
Name: Julissa M. Chavez-Mata
Notary Number: FF989523

Notary Stamp: _____

Julissa M. Chavez-Mata
NOTARY PUBLIC
STATE OF FLORIDA
Comm# FF989523
Expires 5/4/2020

EXHIBIT

“A”

Elizabeth Sewell

From: Eric McDonough <phd2b05@gmail.com>
Sent: Wednesday, March 13, 2019 12:16 AM
To: Elizabeth Sewell
Cc: Matthew H. Mandel
Subject: Incomplete response to records request

Dear Elizabeth,

I filed a records request on February 18, 2019 requesting: "all records, documents, leave slips, etc. ad infinitum related to any leave taken by Murguido between April 9th, 2013 and April 9th 2015. This includes sick leave, vacation leave, holiday leave, administrative leave and comp time. Also requested is any leave or travel for training or any other official reason."

After reviewing the provided records, it is beyond certain that not all records which would be responsive to the request have been provided. Aside from the single page showing Murguido's request to attend an awards ceremony, what was provided is simply sheets of compiled data, from one system of one kind, which at a minimum itself would possess a "paper trail" or other records from which it was generated or created.

Therefore, I am again requesting, under FS. 119 et seq., all the remaining records that are responsive to "all records, documents, leave slips, etc. ad infinitum related to any leave taken by Murguido between April 9th, 2013 and April 9th 2015.", but which were not provided in City's original response on March 11, 2019.

If for some reason these additional public records have been destroyed, please list the retention date and provide copies of the destruction logs pertinent to such.

PLEASE PROVIDE ELECTRONIC COPIES OF ELECTRONIC RECORDS.

Thank you.

Dr. James Eric McDonough

EXHIBIT

“B”

Samuel I. Zeskind

From: Elizabeth Sewell <ESewell@cityofhomestead.com>
Sent: Friday, March 15, 2019 5:17 PM
To: 'Eric McDonough'
Cc: Matthew Pearl; Matthew H. Mandel; Samuel I. Zeskind
Subject: RE: Response for Remaining non-produced records

The records are in this drop box link which was provided to you in the 2:42 pm email that was sent to you. Here it is again.

<https://www.dropbox.com/sh/29mthue5x4aya4j/AAAinxseeliDctDDFKVSLjGPa?dl=0>

From: Eric McDonough [mailto:phd2b05@gmail.com]
Sent: Friday, March 15, 2019 5:15 PM
To: Elizabeth Sewell <ESewell@cityofhomestead.com>
Cc: Matthew Pearl <mpearl@wsh-law.com>; Matthew H. Mandel <MMandel@wsh-law.com>; Samuel I. Zeskind <SZeskind@wsh-law.com>
Subject: Re: Response for Remaining non-produced records

Since you were emailing me a second time, I thought you were ready to provide the rest of the responsive documents.

Guess I was mistaken.

On Fri, Mar 15, 2019, 5:13 PM Elizabeth Sewell <ESewell@cityofhomestead.com> wrote:

This email was sent to you at 2:42pm with a drop box link with the records. Please see the below emails. Thank you.

From: Elizabeth Sewell
Sent: Friday, March 15, 2019 5:01 PM
To: 'Eric McDonough' <phd2b05@gmail.com>
Subject: FW: Response for Remaining non-produced records

From: Elizabeth Sewell
Sent: Friday, March 15, 2019 2:42 PM
To: 'Eric McDonough' <phd2b05@gmail.com>
Subject: Response for Remaining non-produced records

Good afternoon Mr. McDonough,

The remaining responsive records are in the below dropbox link.

<https://www.dropbox.com/sh/29mthue5x4aya4j/AAAinxseelIDctDDFKVSLjGPa?dl=0>

From: Eric McDonough [<mailto:phd2b05@gmail.com>]

Sent: Wednesday, March 13, 2019 10:04 PM

To: Elizabeth Sewell <ESewell@cityofhomestead.com>

Cc: Matthew Pearl <mpearl@wsh-law.com>; Matthew H. Mandel <MMandel@wsh-law.com>

Subject: Remaining non-produced records

Dear Elizabeth,

I have not received a response acknowledging my request this morning for the remaining responsive records which were not supplied in the initial response on 3/11/2019.

As you are aware Judge Rodriguez issued an Alternative Writ in Mandamus today requiring the City to respond with its defenses within 20 days, thereafter an immediate hearing will be set.

While my Amended Complaint stated that records were provided on 3/11/2019, it was not clear that not all records had been produced.

Please provide the remaining responsive records by Monday 3/18/2019.

If you fail to produce the remaining records I will have to consider contacting Judge Rodriguez's chambers again to set an additional immediate hearing to force their production, as is my right under FS. 119.11(1). However, I prefer to minimize time and resources wasted by all parties including the court.

Thank you for your compliance.

Dr. James Eric McDonough

EXHIBIT

“C”

Elizabeth Sewell

From: Elizabeth Sewell
Sent: Thursday, March 21, 2019 12:22 PM
To: 'Eric McDonough'
Cc: Julissa Chavez
Subject: Response for Remaining non-produced records
Attachments: Murguido Travel Information.PDF

Good afternoon Mr. McDonough,

Attached are additional records responsive to your public records request dated February 18, 2019. These records have been redacted pursuant to section 119.071(5)(b), Florida Statutes ("Bank account numbers and debit, charge, and credit card numbers held by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution."). Also, additional responsive records, in the form of doctors' notes required to substantiate medical leave requests, have been withheld as confidential and exempt from disclosure pursuant to Health Insurance Portability and Accountability Act Privacy Rule of 1996 (HIPAA), and sections 119.071(4)(b), 112.08(7), 395.3025(7)(a), 456.057, Fla. Stat.

From: Eric McDonough [mailto:phd2b05@gmail.com]
Sent: Monday, March 18, 2019 12:26 PM
To: Elizabeth Sewell <ESewell@cityofhomestead.com>
Subject: Re: Response for Remaining non-produced records

Hello Elizabeth,

I was able to access the 153 page PDF.

As to any other documents, it is clear that the City is playing games with the public records law. I will be better able to answer that question after discovery and depositions have been completed.

Thank you.

Dr. James Eric McDonough

On Mon, Mar 18, 2019, 10:53 AM Elizabeth Sewell <ESewell@cityofhomestead.com> wrote:

Good morning Mr. McDonough,

Please confirm that you were able to access the 153-page PDF in the dropbox link that was provided by email on Friday, March 15, 2019.

Also, with respect to the "other responsive documents" you are requesting, please provide clarification as to what records you are seeking. If there is a specific record or category of records that you believe is responsive to your request but has not been produced, please identify them so that the City can conduct a further search of its records.

Thank you

From: Eric McDonough [mailto:phd2b05@gmail.com]
Sent: Friday, March 15, 2019 8:12 PM
To: Elizabeth Sewell <ESewell@cityofhomestead.com>
Cc: Matthew H. Mandel <MMandel@wsh-law.com>; Matthew Pearl <mpearl@wsh-law.com>
Subject: Re: Response for Remaining non-produced records

I have the records you have sent me about 5 times now. Unless there is something on the CD not on the Dropbox link, I am not interested in it.

However, I do appreciate you providing at least some of the other responsive documents proving that the City had violated the law at least twice in this records request. If anyone wants to admit that that willfully denied me the records that would be great.

I haven't heard back on the dates for taking your deposition in this case. Would you like to provide a date for the next week or two? If I don't hear back by Monday at 4 pm, I'll just serve another subpoena.

Thanks.

Dr. James Eric McDonough

On Fri, Mar 15, 2019, 8:02 PM Elizabeth Sewell <ESewell@cityofhomestead.com> wrote:

Good evening Mr. McDonough,

In addition to the dropbox links that I have sent twice, the records are on a disc that is ready for you to pick up at city hall.

From: Eric McDonough [mailto:phd2b05@gmail.com]
Sent: Friday, March 15, 2019 5:15 PM
To: Elizabeth Sewell <ESewell@cityofhomestead.com>
Cc: Matthew Pearl <mpearl@wsh-law.com>; Matthew H. Mandel <MMandel@wsh-law.com>; Samuel I. Zeskind <SZeskind@wsh-law.com>
Subject: Re: Response for Remaining non-produced records

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Guess I was mistaken.

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Subject: Response for Remaining non-produced records

Good afternoon Mr. McDonough,

The remaining responsive records are in the below dropbox link.

<https://www.dropbox.com/sh/29mthue5x4aya4j/AAAinxseelDctDDFKVSLjGPa?dl=0>

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Sent: Wednesday, March 13, 2019 10:04 PM

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While my Amended Complaint stated that records were provided on 3/11/2019, it was not clear that not all records had been produced.

Please provide the remaining responsive records by Monday 3/18/2019.

If you fail to produce the remaining records I will have to consider contacting Judge Rodriguez's chambers again to set an additional immediate hearing to force their production, as is my right under FS. 119.11(1). However, I prefer to minimize time and resources wasted by all parties including the court.

Thank you for your compliance.

Dr. James Eric McDonough

CITY OF HOMESTEAD, FLORIDA

GENERAL FUND

650 NE 2ND TERRACE

HOMESTEAD, FL 33030

68-514

660

DATE: 06/20/14

TO
THE
ORDER
OF
MURGUEDO, ALEJANDRO
4 SOUTH BONE AVE
HOMESTEAD, FL 33030

PAY

ONE HUNDRED THREE AND 00/100 DOLLARS

XX-XXXX-XXXX-03.00

XX-XXXX-XXXX-00.00

CITY OF HOMESTEAD, FLORIDA

DATE	INVOICE NUMBER	PO NUMBER	ACCOUNT NUMBER	ITEM DESCRIPTION	AMOUNT OF INVOICE
06/10/14	FLR-14	FLR-14	██████████	PER ITEM	103.00

DATE: 06/20/20

VENDOR
NUMBER

18123

TOTAL CHECK
AMOUNT

██████████

103.00

DATE: 06/20/20

CHECK
NUMBER

██████████

103.00

INVOICE

Field Purchase Order # WU3111

W03111

Department/Division Police/Uniform Date: 6/10/14

Date: 6/10/14

PAY TO Murguido, Alejandro **Amount \$** 103.00

Amount \$ 103.00

Hold for pickup

Invoice # _____

Total Invoice Amount

EXPLANATION (please be thorough)

This is for travel to the Florida Law Enforcement Challenge Awards Ceremony being held in Orlando Florida on June 27th, 2014.

APPROVED BY:

Capt. Tony Serric
DIVISION HEAD

G. Rolle
DEPARTMENT HEAD

AUTHORIZATION FORM

2014 APR 24 AM

*Do not write / CM Office Only*CMO Log #: 1997
Rev'd Date: 4/26/14**Originator:**CFLOODY
NamePOLICE
Department5552
Ext.04/18/14
Date**Description of Request:**Travel Authorization Contract COW Item Budget Transfer Grant Item Other (Please Specify) _____**(Describe Request)**

Ofc. Murguido would like to attend Florida Law Enforcement Challenge Awards Ceremony to receive an award on June 27th, 2014. This would include an overnight stay.

Department Head Signature: A. CalleFinance Signature (If Required): 4/28/14

Assigned to:

A. Love D. Hebert On 4/29/14**Review Completed by Staff – Comments:**

- RETURN TO ORIGINATOR FOR ADDITIONAL COMMENTS
- APPROVED FOR CITY MANAGER, GEORGE GRETAS' SIGNATURE

TRACKING:

Returned to _____ Department for additional information on: _____

Forwarded to _____ Department for action on: _____

City of Homestead
TRAVEL AUTHORIZATION REQUEST

SECTION I 2014 APR 24 AM 11:34

Murguido, Alejandro XXX-XX-
NAME (Last, First, Middle) SOCIAL SEC. NO.
Uniform Police
DIVISION DEPARTMENT
Award Ceremony
PURPOSE OF TRAVEL (Conference, Meeting, Etc)
June 27th, 2014
ACTUAL DATES OF MEETINGS (First Meeting to Last)

VERIFICATION OF FUNDS AVAILABLE

Budget Code No. _____

Amt. Budgeted 10,000.00

Spent of Encumbered
to Date 2356 4,044.00

Available at this time 7647 8,155.20

No funds available
Appropriation Necessary
(amount necessary)

CH/AS
Dept/Div Head

MF
Finance Director

4/25/14

JUSTIFICATION: Ofc. Murguido would like to attend the Florida Law Enforcement
Challenge Awards Ceremony in Orlando, FL to receive a placement reward. Cost
will be Hotel, Per Diem, Fuel and Tolls. Driving City vehicle.

PERSON IN CHARGE DURING ABSENCE

6/26/14
DEPARTURE DATE

6/27/14
RETURN DATE

TRAVELING TO: Orlando Florida

IS AIR TRAVEL INVOLVED? YES NO

NO. OF NIGHTS EXPECTED AWAY FROM CITY 1

EXPECTED EXPENSES

Transportation	\$	
Hotel	\$	<u>no hotel cost sharing w/ Agosto</u>
Registration Fee	\$	
Meals	\$	<u>✓ 103.00</u>
Other (Explain)	\$	
Gas /Tolls	\$	<u>320.00 134.00</u>

Chbn A. Murgido 4/18/14
SIGNATURE OF APPLICANT DATE

APPROVED
DISAPPROVED

CH/AS 4/18/14
DEPT/DIV HEAD DATE

TOTAL \$ 423.00 237.00

APPROVED
DISAPPROVED

CH/AS 4/18/14
CITY MANAGER DATE

SECTION II

CASH ADVANCE REQUEST

I request a cash advance of \$ 103.00 (not to exceed approved per diem rate for each date of travel or meeting.) I further authorize this advance to be deducted from my paycheck if I have not submitted a settlement that has been approved by the Finance Director within sixty (60) working days of the final date of the above travel.

Chbn A. Murgido
EMPLOYEE REQUESTING TRAVEL

APPROVED
DISAPPROVED

CH/AS 4/18/14
DEPT/DIV HEAD DATE
CH/AS 4/29/14
CITY MANAGER DATE

SCANNED

Per Diem Meal Rate: Orlando, FL

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Totals
	06/22/14	06/23/14	06/24/14	06/25/14	06/26/14	06/27/14	06/28/14	
Breakfast						\$9.00		9.00
Lunch					\$13.00	\$13.00		\$26.00
Dinner					\$29.00	\$29.00		\$58.00
Incidentals					\$5.00	\$5.00		\$10.00
Totals					\$47.00	\$56.00		\$163.00

Florida Law Enforcement Challenge Awards Ceremony: Murguio, Alejandro

Per Diem Meal Rate: Orlando, FL

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Totals
	06/22/14	06/23/14	06/24/14	06/25/14	06/26/14	06/27/14	06/28/14	
Breakfast						\$9.00		9.00
Lunch					\$13.00	\$13.00		\$26.00
Dinner					\$29.00	\$29.00		\$58.00
Incidentals					\$5.00	\$5.00		\$10.00
Totals					\$47.00	\$56.00		\$163.00

Florida Law Enforcement Challenge Awards Ceremony: Agosto, Victor

Per Diem Meal Rate: Orlando, FL

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Totals
	06/22/14	06/23/14	06/24/14	06/25/14	06/26/14	06/27/14	06/28/14	
Breakfast						\$9.00		\$9.00
Lunch					\$13.00	\$13.00		\$26.00
Dinner					\$29.00	\$29.00		\$58.00
Incidentals					5.00	\$5.00		\$10.00
Totals					\$47.00	\$56.00		\$163.00

Florida Law Enforcement Challenge Awards Ceremony: Binnert, Jean Luc

003	13.00	+	6/26/14
	29.00	+	
	5.00	+	
	47.00	*	
004	9.00	+	6/27/14
	13.00	+	
	29.00	+	
	5.00	+	
004	56.00	*	
002	47.00	+	total meals
	56.00	+	
	103.00	*	

004

56.00 *

002

47.00 +

56.00 +

103.00 *

total meals

FL	Daytona Beach	Volusia	October 1	January 31	\$ 83	\$ 51
FL	Daytona Beach	Volusia	February 1	July 31	\$ 97	\$ 51
FL	Daytona Beach	Volusia	August 1	September 30	\$ 83	\$ 51
FL	Fort Lauderdale	Broward	October 1	December 31	\$ 134	\$ 71
FL	Fort Lauderdale	Broward	January 1	March 31	\$ 180	\$ 71
FL	Fort Lauderdale	Broward	April 1	May 31	\$ 147	\$ 71
FL	Fort Lauderdale	Broward	June 1	September 30	\$ 108	\$ 71
FL	Fort Myers	Lee	October 1	December 31	\$ 88	\$ 56
FL	Fort Myers	Lee	January 1	April 30	\$ 128	\$ 56
FL	Fort Walton Beach / DeFuniak Springs	Okaloosa and Walton	May 1	September 30	\$ 88	\$ 56
FL	Fort Walton Beach / DeFuniak Springs	Okaloosa and Walton	October 1	October 31	\$ 126	\$ 51
FL	Fort Walton Beach / DeFuniak Springs	Okaloosa and Walton	November 1	February 28	\$ 126	\$ 51
FL	Fort Walton Beach / DeFuniak Springs	Okaloosa and Walton	March 1	May 31	\$ 83	\$ 51
FL	Fort Walton Beach / DeFuniak Springs	Okaloosa and Walton	June 1	July 31	\$ 142	\$ 51
FL	Fort Walton Beach / DeFuniak Springs	Okaloosa and Walton	August 1	September 30	\$ 188	\$ 51
FL	Gainesville	Alachua			\$ 126	\$ 51
FL	Gulf Breeze	Santa Rosa			\$ 91	\$ 51
FL	Key West	Monroe	October 1	November 30	\$ 87	\$ 51
FL	Key West	Monroe	December 1	January 31	\$ 167	\$ 71
FL	Key West	Monroe	February 1	April 30	\$ 210	\$ 71
FL	Key West	Monroe	May 1	September 30	\$ 246	\$ 71
FL	Miami	Miami-Dade	October 1	December 31	\$ 167	\$ 71
FL	Miami	Miami-Dade	January 1	March 31	\$ 140	\$ 66
FL	Miami	Miami-Dade	April 1	May 31	\$ 187	\$ 66
FL	Miami	Miami-Dade	June 1	September 30	\$ 138	\$ 66
FL	Naples	Collier	October 1	December 31	\$ 109	\$ 66
FL	Naples	Collier	January 1	April 30	\$ 121	\$ 61
FL	Naples	Collier	May 1	September 30	\$ 186	\$ 61
FL	Orlando	Orange	October 1	December 31	\$ 105	\$ 61
FL	Orlando	Orange	January 1	April 30	\$ 101	\$ 56
FL	Orlando	Orange	May 1	September 30	\$ 123	\$ 56
FL	Panama City	Bay	October 1	February 28	\$ 83	\$ 51
FL	Panama City	Bay	March 1	July 31	\$ 113	\$ 51
FL	Panama City	Bay	August 1	September 30	\$ 83	\$ 51
FL	Pensacola	Escambia			\$ 102	\$ 46
FL	Punta Gorda	Charlotte	October 1	January 31	\$ 83	\$ 51
FL	Punta Gorda	Charlotte	February 1	March 31	\$ 100	\$ 51
FL	Punta Gorda	Charlotte	April 1	September 30	\$ 83	\$ 51
FL	Sarasota	Sarasota	October 1	January 31	\$ 94	\$ 56
FL	Sarasota	Sarasota	February 1	April 30	\$ 128	\$ 56
FL	Sarasota	Sarasota	May 1	September 30	\$ 94	\$ 56
FL	Seminole	Seminole	October 1	December 31	\$ 83	\$ 46
FL	Seminole	Seminole	January 1	March 31	\$ 117	\$ 46
FL	Seminole	Seminole	April 1	September 30	\$ 83	\$ 46
FL	St. Augustine	St. Johns			\$ 102	\$ 56

9
13
D
29

NEWS ALERT! ALLEGED TOLL COLLECTION SCAM IN FLORIDA! [Read the full story](#). Florida Department of Transportation is warning drivers of a possible toll scam involving all**Florida's Turnpike: Toll costs & toll rate calculator.**

Pick your on ramp, your off ramp and vehicle class.

FLORIDA TURNPIKE TOLLS

1 PICK YOUR ENTRANCE
309: Interstate 75

2 PICK YOUR EXIT
309: Interstate 75

3 NUMBER OF AXLES
MOTORCYCLISTS USE "2 - Two Axles"
2 - Two Axles

4 GET THE TOLL COST
HOW MUCH? →

MY NEW TRAVEL ITINERARY

1 YOUR TOLL CHARGES

Cash: \$21.65
SunPass: \$16.95
Old SP price: \$16.80

THIS IS THE 2-AXLE TOLL RATE.
CASH TOLL COST REFLECTS PAY-BY-PLATE
COST PLUS CASH TOLL ON THE MAINLINE.

2 DIRECTION, DISTANCE & WEATHER

NORTH About 258 miles.
Fr: MI 1-H: Florida City / Homestead (25.4532, -80.4721)
To: MI 259: Orlando - 14/Disney World (28.4788, -81.4483)

 [View weather conditions near Exit 259: Orlando - 14/Disney World.](#)

3 TRAVEL TIMES

1 3 hours, 58 minutes.
2 4 hours, 41 minutes.
3 5 hours, 43 minutes.

Travel times are approximate, given for ideal travel conditions at the speeds indicated. Obey speed limits.

MY TOLL SEARCH HISTORY

MOST RECENT
EXIT HEFT: FLORIDA CITY / HOMESTEAD
NORTH TO EXIT 259: ORLANDO - 14/DISNEY WORLD

Tolls 17x2
34.00 RT

Become A Member | Log In

Find Local Gas Prices

GasBuddy.com

Home | Blog | Gas Prices | Price Charts | Gas Price Maps | Points & Prizes | Mobile Apps | Media | Contact | Advertise with us

Trip Cost Calculator | Gas Prices by State/Province | City & State Averages | Fuel Saving Tips

Bank of America  **Trip cost calculator**

[Plan My Route](#)

Start: 4 South Krome Ave Homestead Florida 33030
End: 9939 Universal Blvd, Orlando, Florida 32819

Add Destination: One Way Return Trip

Vehicle Information

2012
Dodge
Charger (Auto 6.4L RWD)

City Hwy Tank Fuel Type
14 23 19.1 Premium
mpg gal
or Enter My Own Information

[Advanced Options](#) [Show](#)

Fuel My Trip
maximize my savings

Trip Summary

4 South Krome Avenue, Homestead, FL 33030, USA to 9939 Universal Boulevard, University of Central Florida, Orlando, FL 32819, USA
to 4 South Krome Avenue, Homestead, FL 33030, USA

 **Total Trip Cost**
\$87.40

My Savings
 **\$8.13**

Bank of America "Fuel Rewards" program
Earn 3% cash back on gas
Bank of America [Learn more](#)

Distance **Fuel Used** **Carbon Footprint**
 521.7 mi  22.17 gal  549.16 lbs

4 South Krome Avenue, Homestead, FL 33030, USA
[Hide Directions](#)

260.9 mi (about 3 hours 43 mins)

Head north on S Krome Ave toward E Mowry Dr 131 ft

Take the 1st right onto E Mowry Dr 0.3 mi

Turn right onto Homestead Blvd 1 mi

Turn left onto the Florida Turnpike N ramp 0.2 mi
Partial toll road

Merge onto FL-821 N 46.8 mi
Partial toll road

Keep right at the fork, follow signs for Orlando/Florida's Turnpike N and 208.1 mi
merge onto Florida's Turnpike Toll road

Take exit 254 to merge onto U.S. 17 S/US-441 S/US-92 W 1.2 mi
Partial toll road

Turn right onto Consulate Dr 0.6 mi

Turn left to merge onto FL-528 W/FL-528 Toll W 2 mi

Take exit 2 toward Universal Blvd 0.4 mi

Turn right onto Universal Blvd 0.4 mi
Destination will be on the right

9939 Universal Boulevard, University of Central Florida, Orlando, FL 32819, USA
[Show Directions](#)

260.0 mi (about 3 hours 44 mins)

F-D #1	Love's 7150 Okeechobee Rd Fort Pierce, FL	\$3.93 ^g 15.66 gal	\$61.65
Top Up Fill	RaceTrac 1955 NE 6th St Homestead, FL	\$3.94 ^g 6.82 gal	\$25.75

4 South Krome Avenue, Homestead, FL 33030, USA

New Price of Gas

*Consumers working together to save on gas

[GasBuddy.com](#) [About Us](#) | [Privacy Policy](#) | [Disclaimer](#) | [Contact Us](#)

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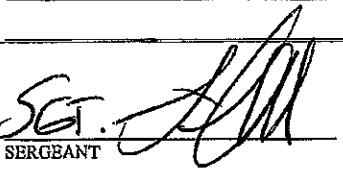
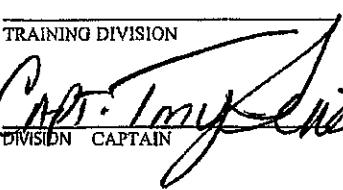
TRAINING MEMORANDUM



To: Sgt. Thomas Surman
 From: Ofc. Alejandro Murguido
 Subject: Florida Law Enforcement Challenge Awards ceremony
 CC: Captain Tony Sincore
 Date: 04/14/2014

I request to attend the Florida Law Enforcement Challenge Awards ceremony in Orlando Fl. on Friday June 27th, 2014 beginning at 0900. Homestead Police Department was invited to attend due to placing in the Motor Unit Challenge. The ceremony will be at the Rosen Shingle Creek hotel, see letter attached. This would require travel to Orlando on thursday June 26th and one night hotel stay.

I respectfully request to represent the Homestead Police Department at this invitation only event.

 SERGEANT		<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied	Comments: <hr/> <hr/> <hr/>
LIEUTENANT		<input type="checkbox"/> Approved <input type="checkbox"/> Denied	Comments: <hr/> <hr/> <hr/>
TRAINING DIVISION  DIVISION CAPTAIN		<input type="checkbox"/> Approved <input type="checkbox"/> Denied	Comments: <hr/> <hr/> <hr/>
DIVISION MAJOR  CHIEF OF POLICE		<input type="checkbox"/> Approved <input type="checkbox"/> Denied	Comments: <hr/> <hr/> <hr/>
CITY MANAGER		<input type="checkbox"/> Approved <input type="checkbox"/> Denied	Comments: <hr/> <hr/> <hr/>



February 27, 2014

Chief Alexander E. Rolle, Jr.
Homestead Police Department
4 South Krome Avenue
Homestead, FL 33030

Dear Chief Rolle, Jr.:

The Florida Motor Unit Challenge results are complete. As a result of your efforts in developing a comprehensive traffic safety program, your department made a significant and positive impact in your community by reducing traffic related crashes, injuries, and fatalities.

You are receiving this letter because your department has placed in the *Motor Unit Challenge*, earning 10,000 points to spend in our on-line catalog beginning March 24, 2014 with the catalog closing April 7, 2014. We are inviting you to join us for the Florida Law Enforcement Challenge Awards ceremony on Friday, June 27, 2014 at the Rosen Shingle Creek Resort in Orlando, Florida. The ceremony will begin promptly at 9:00 AM. A reception to showcase vendors with items appearing in the online catalog is scheduled for Thursday, June 26, 2014 from 6:00 PM to 8:00 PM.

Your department placed in the top ten and eligible to draw the fully-equipped Harley-Davidson motorcycle.

Each agency will be responsible for all costs (travel, lodging, etc.) associated with attending the awards ceremony. If representatives from your agency will be attending, please R.S.V.P. to Diane Maxfield at maxfield@tcc.fl.edu. Reservations for the Rosen Shingle Creek Resort must be made directly with the hotel by telephone at (866) 996-6338 using Group Name: Florida Dept. of Transportation Law Enforcement Challenge Awards. A limited number of rooms have been set aside at the government rate of \$101 per night. The deadline for reservations at this special rate is 5:00 PM. Monday, May 26, 2014. Complimentary self-parking and high-speed guestroom internet will be provided for the dates of the event.

We look forward to seeing you in Orlando!

Sincerely,

Kate Nelson, Director
Law Enforcement Liaison Program
FPSI/Florida Department of Transportation

KN/dm



GM200I13
Fiscal Year 2014

CITY OF HOMESTEAD
Account Balance Inquiry

4/18/14
10:02:37

Account number . . . : **[REDACTED]**
Fund : 001 GENERAL FUND
Department : 40 POLICE
Division : 32 OPERATIONS SERVICES
Activity basic . . . : 52 ADMINISTRATION
Sub activity . . . : 1 POLICE
Element : 34 OTHER SERVICES
Object : 23 TRAVEL & TRAINING

Project Req'd

Original budget	10,000
Actual expenditures - current . . .	74.80
Actual expenditures - ytd	1,770.00
Unposted expenditures00
Encumbered amount00
Unposted encumbrances00
Pre-encumbrance amount00
Total expenditures & encumbrances:	1,844.80
Unencumbered balance	8,155.20

18.4 %
81.6 %

F5=Encumbrances F7=Project data

F8=Misc inquiry

F10=Detail trans

F11=Acct activity list

F12=Cancel

F24=More keys

EXHIBIT

“D”

Elizabeth Sewell

From: Eric McDonough <phd2b05@gmail.com>
Sent: Saturday, March 23, 2019 3:46 PM
To: Elizabeth Sewell
Cc: Matthew H. Mandel; Matthew Pearl; Samuel I. Zeskind; Elvis Maldonado; Patricia Fairclough; George Gretsas; Jenifer Bailey; Larry Roth; Stephen Shelley; Jon Burgess
Subject: Re: Response for Remaining non-produced records

Dear Elizabeth,

Sorry for not replying earlier to your response. I had to wait so as not to reply in anger. What is crystal clear is that you hold me in contempt, think I am mentally deficient, and treat me and others as such to your employer's detriment.

Twice now, after providing the first set of records after the filing of suit, you have provided additional records responsive to my 2/18/2019 records request. Yet, you have still failed to provided all responsive records.

For instance you claim that additional responsive records required to substantiate medical leave request are exempt under FS. 119 and HIPPA. I agree that doctor's notes and medical records are exempt. However, are you proposing Murguido took an entire month of workers comp leave and there is no incident report for this? He had to of gotten hurt at work to take a month off under workers comp correct? As Murguido has been in at least 8 to 9 accidents in police vehicles to my knowledge, and drives like a absolute maniac, it is assumed that Murguido was in yet another accident. If so hopefully his reckless driving only hurt himself this time and not others. Not sure of this maybe he slipped and fell, or got shot by a suspect, etc.

Regardless, the actual incident report of him being injured at work is not a medical record and should not be exempt. Yet, you have failed to provide this record(s) after three attempts to produce responsive records now. Is there a reason the incident report has not been provided to date? Will you be providing me with this record(s) voluntarily or will you make the Judge force you to?

Sadly, your non-compliance with statutory obligations has led to your employer being sued yet again. I must ask are you purposefully trying to increase the attorney fees, currently at least a quarter of a millions dollars, which the City is paying to defend non-compliance of your office with the Public Records Act?

Thank you for your time. I look forward to expeditiously receiving more records responsive to my 2/18/2019 request. Hopefully you will provide all the remaining responsive records to my request, but that is doubtful.

Dr. James Eric McDonough

On Thu, Mar 21, 2019 at 12:23 PM Elizabeth Sewell <ESewell@cityofhomestead.com> wrote:

Good afternoon Mr. McDonough,

Attached are additional records responsive to your public records request dated February 18, 2019. These records have been redacted pursuant to section 119.071(5)(b), Florida Statutes ("Bank account numbers and debit, charge, and credit card numbers held by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution."). Also, additional responsive records, in the form of doctors' notes required to substantiate medical

leave requests, have been withheld as confidential and exempt from disclosure pursuant to Health Insurance Portability and Accountability Act Privacy Rule of 1996 (HIPAA), and sections 119.071(4)(b), 112.08(7), 395.3025(7)(a), 456.057, Fla. Stat.

From: Eric McDonough [mailto:phd2b05@gmail.com]
Sent: Monday, March 18, 2019 12:26 PM
To: Elizabeth Sewell <ESewell@cityofhomestead.com>
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Hello Elizabeth,

I was able to access the 153 page PDF.

As to any other documents, it is clear that the City is playing games with the public records law. I will be better able to answer that question after discovery and depositions have been completed.

Thank you.

Dr. James Eric McDonough

On Mon, Mar 18, 2019, 10:53 AM Elizabeth Sewell <ESewell@cityofhomestead.com> wrote:

Good morning Mr. McDonough,

Please confirm that you were able to access the 153-page PDF in the dropbox link that was provided by email on Friday, March 15, 2019.

Also, with respect to the "other responsive documents" you are requesting, please provide clarification as to what records you are seeking. If there is a specific record or category of records that you believe is responsive to your request but has not been produced, please identify them so that the City can conduct a further search of its records.

Thank you

From: Eric McDonough [mailto:phd2b05@gmail.com]
Sent: Friday, March 15, 2019 8:12 PM
To: Elizabeth Sewell <ESewell@cityofhomestead.com>
Cc: Matthew H. Mandel <MMandel@wsh-law.com>; Matthew Pearl <mpearl@wsh-law.com>
Subject: Re: Response for Remaining non-produced records

I have the records you have sent me about 5 times now. Unless there is something on the CD not on the Dropbox link, I am not interested in it.

However, I do appreciate you providing at least some of the other responsive documents proving that the City had violated the law at least twice in this records request. If anyone wants to admit that that willfully denied me the records that would be great.

I haven't heard back on the dates for taking your deposition in this case. Would you like to provide a date for the next week or two? If I don't hear back by Monday at 4 pm, I'll just serve another subpoena.

Thanks.

Dr. James Eric McDonough

On Fri, Mar 15, 2019, 8:02 PM Elizabeth Sewell <ESewell@cityofhomestead.com> wrote:

Good evening Mr. McDonough,

In addition to the dropbox links that I have sent twice, the records are on a disc that is ready for you to pick up at city hall.

From: Eric McDonough [mailto:phd2b05@gmail.com]
Sent: Friday, March 15, 2019 5:15 PM
To: Elizabeth Sewell <ESewell@cityofhomestead.com>
Cc: Matthew Pearl <mpearl@wsh-law.com>; Matthew H. Mandel <MMandel@wsh-law.com>; Samuel I. Zeskind <SZeskind@wsh-law.com>
Subject: Re: Response for Remaining non-produced records

Since you were emailing me a second time, I thought you were ready to provide the rest of the responsive documents.

Guess I was mistaken.

On Fri, Mar 15, 2019, 5:13 PM Elizabeth Sewell <ESewell@cityofhomestead.com> wrote:

This email was sent to you at 2:42pm with a drop box link with the records. Please see the below emails. Thank you.

From: Elizabeth Sewell
Sent: Friday, March 15, 2019 5:01 PM
To: 'Eric McDonough' <phd2b05@gmail.com>
Subject: FW: Response for Remaining non-produced records

From: Elizabeth Sewell
Sent: Friday, March 15, 2019 2:42 PM
To: 'Eric McDonough' <phd2b05@gmail.com>
Subject: Response for Remaining non-produced records

Good afternoon Mr. McDonough,

The remaining responsive records are in the below dropbox link.

<https://www.dropbox.com/sh/29mthue5x4aya4j/AAAinxseeliDctDDFKVSLjGPa?dl=0>

From: Eric McDonough [<mailto:phd2b05@gmail.com>]
Sent: Wednesday, March 13, 2019 10:04 PM
To: Elizabeth Sewell <ESewell@cityofhomestead.com>

Cc: Matthew Pearl <mpearl@wsh-law.com>; Matthew H. Mandel <MMandel@wsh-law.com>
Subject: Remaining non-produced records

Dear Elizabeth,

I have not received a response acknowledging my request this morning for the remaining responsive records which were not supplied in the initial response on 3/11/2019.

As you are aware Judge Rodriguez issued an Alternative Writ in Mandamus today requiring the City to respond with its defenses within 20 days, thereafter an immediate hearing will be set.

While my Amended Complaint stated that records were provided on 3/11/2019, it was not clear that not all records had been produced.

Please provide the remaining responsive records by Monday 3/18/2019.

If you fail to produce the remaining records I will have to consider contacting Judge Rodriguez's chambers again to set an additional immediate hearing to force their production, as is my right under FS. 119.11(1). However, I prefer to minimize time and resources wasted by all parties including the court.

Thank you for your compliance.

Dr. James Eric McDonough

EXHIBIT

“E”

Samuel I. Zeskind

From: Eric McDonough <phd2b05@gmail.com>
Sent: Tuesday, March 26, 2019 12:46 PM
To: Elizabeth Sewell
Cc: Matthew H. Mandel; Matthew Pearl; Samuel I. Zeskind; Elvis Maldonado; Patricia Fairclough; George Gretsas; Jenifer Bailey; Larry Roth; Stephen Shelley; Jon Burgess
Subject: Re: Response for Remaining non-produced records

Dear Elizabeth,

I have not heard back from you regarding the still unprovided responsive documents regarding the Worker's Comp leave Officer Alejandro Murguido took between February 7, 2014 and March 1, 2014. This would include at least: 1) The State Workers Comp reporting form which is required by the State; and 2) The City of Homestead Accident Report used to report accidents to human resources. Both of these are public records and should not be exempt. Please provide these records and any and all further records responsive to the February 18, 2019 records request immediately.

Thank you,

Dr. James Eric McDonough

On Sat, Mar 23, 2019 at 3:45 PM Eric McDonough <phd2b05@gmail.com> wrote:

Dear Elizabeth,

Sorry for not replying earlier to your response. I had to wait so as not to reply in anger. What is crystal clear is that you hold me in contempt, think I am mentally deficient, and treat me and others as such to your employer's detriment.

Twice now, after providing the first set of records after the filing of suit, you have provided additional records responsive to my 2/18/2019 records request. Yet, you have still failed to provided all responsive records.

For instance you claim that additional responsive records required to substantiate medical leave request are exempt under FS. 119 and HIPPA. I agree that doctor's notes and medical records are exempt. However, are you proposing Murguido took an entire month of workers comp leave and there is no incident report for this? He had to of gotten hurt at work to take a month off under workers comp correct? As Murguido has been in at least 8 to 9 accidents in police vehicles to my knowledge, and drives like a absolute maniac, it is assumed that Murguido was in yet another accident. If so hopefully his reckless driving only hurt himself this time and not others. Not sure of this maybe he slipped and fell, or got shot by a suspect, etc.

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From: Eric McDonough [mailto:phd2b05@gmail.com]
Sent: Monday, March 18, 2019 12:26 PM
To: Elizabeth Sewell <ESewell@cityofhomestead.com>
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Thank you

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To: Elizabeth Sewell <ESewell@cityofhomestead.com>

Cc: Matthew H. Mandel <MMandel@wsh-law.com>; Matthew Pearl <mpearl@wsh-law.com>

Subject: Re: Response for Remaining non-produced records

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From: Elizabeth Sewell
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To: 'Eric McDonough' <phd2b05@gmail.com>
Subject: FW: Response for Remaining non-produced records

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Thank you for your compliance.

Dr. James Eric McDonough

EXHIBIT

“F”

Elizabeth Sewell

From: Elizabeth Sewell
Sent: Tuesday, March 26, 2019 2:03 PM
To: 'Eric McDonough'
Subject: Response for Remaining non-produced records PRR 2/18/2019
Attachments: Murguido- WC status dated 02-13-14.pdf; Payroll for February 9, 2014.PDF; Payroll for February 16, 2014.PDF; Payroll for February 23, 2014.PDF; Payroll for March 2, 2014.PDF

Good afternoon Mr. McDonough,

Attached are emails concerning workers' comp leave taken by Officer Murguido in 2014. Please note that the medical records attached to the February 23, 2014 email have been withheld as confidential and exempt from disclosure pursuant to the Health Insurance Portability and Accountability Act Privacy Rule of 1996 ("HIPAA"), and sections 119.071(4)(b), 112.08(7), 395.302S(7)(a), 456.057, Fla. Stat.

The incident report(s)/workers comp reports and accident reports referenced in your emails below were not part of the leave process and were not used to substantiate any requests for leave. Therefore, such reports are not responsive to your February 18, 2019 request. As a result, the City will process your request for these reports relating to Officer Murguido as a new request, of which the City acknowledges receipt.

From: Eric McDonough [<mailto:phd2b05@gmail.com>]
Sent: Tuesday, March 26, 2019 12:46 PM
To: Elizabeth Sewell <ESewell@cityofhomestead.com>
Cc: Matthew H. Mandel <MMandel@wsh-law.com>; Matthew Pearl <mpearl@wsh-law.com>; Samuel I. Zeskind <SZeskind@wsh-law.com>; Elvis Maldonado <EMaldonado@cityofhomestead.com>; Patricia Fairclough <PFairclough@cityofhomestead.com>; George Gretsas <GGretsas@cityofhomestead.com>; Jenifer Bailey <JBailey@cityofhomestead.com>; Larry Roth <LRoth@cityofhomestead.com>; Stephen Shelley <SShelley@cityofhomestead.com>; Jon Burgess <JBurgess@cityofhomestead.com>
Subject: Re: Response for Remaining non-produced records

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Dear Elizabeth,

Sorry for not replying earlier to your response. I had to wait so as not to reply in anger. What is crystal clear is that you hold me in contempt, think I am mentally deficient, and treat me and others as such to your employer's detriment.

Twice now, after providing the first set of records after the filing of suit, you have provided additional records responsive to my 2/18/2019 records request. Yet, you have still failed to provided all responsive records.

For instance you claim that additional responsive records required to substantiate medical leave request are exempt under FS. 119 and HIPPA. I agree that doctor's notes and medical records are exempt. However, are you proposing Murguido took an entire month of workers comp leave and there is no incident report for this? He had to of gotten hurt at work to take a month off under workers comp correct? As Murguido has been in at least 8 to 9 accidents in police vehicles to my knowledge, and drives like a absolute maniac, it is assumed that Murguido was in yet another accident. If so hopefully his reckless driving only hurt himself this time and not others. Not sure of this maybe he slipped and fell, or got shot by a suspect, etc.

Regardless, the actual incident report of him being injured at work is not a medical record and should not be exempt. Yet, you have failed to provide this record(s) after three attempts to produce responsive records now. Is there a reason the incident report has not been provided to date? Will you be providing me with this record(s) voluntarily or will you make the Judge force you to?

Sadly, your non-compliance with statutory obligations has led to your employer being sued yet again. I must ask are you purposefully trying to increase the attorney fees, currently at least a quarter of a millions dollars, which the City is paying to defend non-compliance of your office with the Public Records Act?

Thank you for your time. I look forward to expeditiously receiving more records responsive to my 2/18/2019 request. Hopefully you will provide all the remaining responsive records to my request, but that is doubtful.

Dr. James Eric McDonough

On Thu, Mar 21, 2019 at 12:23 PM Elizabeth Sewell <ESewell@cityofhomestead.com> wrote:

Good afternoon Mr. McDonough,

Attached are additional records responsive to your public records request dated February 18, 2019. These records have been redacted pursuant to section 119.071(5)(b), Florida Statutes ("Bank account numbers and debit, charge, and credit card numbers held by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution."). Also, additional responsive records, in the form of doctors' notes required to substantiate medical leave requests, have been withheld as confidential and exempt from disclosure pursuant to Health Insurance Portability and Accountability Act Privacy Rule of 1996 (HIPAA), and sections 119.071(4)(b), 112.08(7), 395.3025(7)(a), 456.057, Fla. Stat.

From: Eric McDonough [mailto:phd2b05@gmail.com]
Sent: Monday, March 18, 2019 12:26 PM
To: Elizabeth Sewell <ESewell@cityofhomestead.com>
Subject: Re: Response for Remaining non-produced records

Hello Elizabeth,

I was able to access the 153 page PDF.

As to any other documents, it is clear that the City is playing games with the public records law. I will be better able to answer that question after discovery and depositions have been completed.

Thank you.

Dr. James Eric McDonough

On Mon, Mar 18, 2019, 10:53 AM Elizabeth Sewell <ESewell@cityofhomestead.com> wrote:

Good morning Mr. McDonough,

Please confirm that you were able to access the 153-page PDF in the dropbox link that was provided by email on Friday, March 15, 2019.

Also, with respect to the “other responsive documents” you are requesting, please provide clarification as to what records you are seeking. If there is a specific record or category of records that you believe is responsive to your request but has not been produced, please identify them so that the City can conduct a further search of its records.

Thank you

From: Eric McDonough [mailto:phd2b05@gmail.com]
Sent: Friday, March 15, 2019 8:12 PM
To: Elizabeth Sewell <ESewell@cityofhomestead.com>
Cc: Matthew H. Mandel <MMandel@wsh-law.com>; Matthew Pearl <mpearl@wsh-law.com>
Subject: Re: Response for Remaining non-produced records

I have the records you have sent me about 5 times now. Unless there is something on the CD not on the Dropbox link, I am not interested in it.

However, I do appreciate you providing at least some of the other responsive documents proving that the City had violated the law at least twice in this records request. If anyone wants to admit that that willfully denied me the records that would be great.

I haven't heard back on the dates for taking your deposition in this case. Would you like to provide a date for the next week or two? If I don't hear back by Monday at 4 pm, I'll just serve another subpoena.

Thanks.

Dr. James Eric McDonough

On Fri, Mar 15, 2019, 8:02 PM Elizabeth Sewell <ESewell@cityofhomestead.com> wrote:

Good evening Mr. McDonough,

In addition to the dropbox links that I have sent twice, the records are on a disc that is ready for you to pick up at city hall.

From: Eric McDonough [mailto:phd2b05@gmail.com]
Sent: Friday, March 15, 2019 5:15 PM
To: Elizabeth Sewell <ESewell@cityofhomestead.com>
Cc: Matthew Pearl <mpearl@wsh-law.com>; Matthew H. Mandel <MMandel@wsh-law.com>; Samuel I. Zeskind <SZeskind@wsh-law.com>
Subject: Re: Response for Remaining non-produced records

Since you were emailing me a second time, I thought you were ready to provide the rest of the responsive documents.

Guess I was mistaken.

On Fri, Mar 15, 2019, 5:13 PM Elizabeth Sewell <ESewell@cityofhomestead.com> wrote:

This email was sent to you at 2:42pm with a drop box link with the records. Please see the below emails. Thank you.

From: Elizabeth Sewell
Sent: Friday, March 15, 2019 5:01 PM
To: 'Eric McDonough' <phd2b05@gmail.com>
Subject: FW: Response for Remaining non-produced records

From: Elizabeth Sewell
Sent: Friday, March 15, 2019 2:42 PM
To: 'Eric McDonough' <phd2b05@gmail.com>
Subject: Response for Remaining non-produced records

Good afternoon Mr. McDonough,

The remaining responsive records are in the below dropbox link.

<https://www.dropbox.com/sh/29mthue5x4aya4i/AAAinxseeliDctDDFKVSLjGPa?dl=0>

From: Eric McDonough [mailto:phd2b05@gmail.com]
Sent: Wednesday, March 13, 2019 10:04 PM
To: Elizabeth Sewell <ESewell@cityofhomestead.com>
Cc: Matthew Pearl <mpearl@wsh-law.com>; Matthew H. Mandel <MMandel@wsh-law.com>
Subject: Remaining non-produced records

Dear Elizabeth,

I have not received a response acknowledging my request this morning for the remaining responsive records which were not supplied in the initial response on 3/11/2019.

As you are aware Judge Rodriguez issued an Alternative Writ in Mandamus today requiring the City to respond with its defenses within 20 days, thereafter an immediate hearing will be set.

While my Amended Complaint stated that records were provided on 3/11/2019, it was not clear that not all records had been produced.

Please provide the remaining responsive records by Monday 3/18/2019.

If you fail to produce the remaining records I will have to consider contacting Judge Rodriguez's chambers again to set an additional immediate hearing to force their production, as is my right under FS. 119.11(1). However, I prefer to minimize time and resources wasted by all parties including the court.

Thank you for your compliance.

Dr. James Eric McDonough

Danny Avedano

From: Jacquelyn Paschal [Jacquelyn.Paschal@homesteadpolice.com]
Sent: Monday, February 10, 2014 2:36 PM
To: Priscilla Thompson; Danny Avedano
Cc: Sgt. Tom Surman
Subject: Coded W/C - w/e 02/09



PR6000UB1

City of Homestead
Hours Entry

Employee : MURGUIDO, ALEJANDRO
Pay period : WEEKLY 7
Position : POLICE OFFICER - POL
Overtime status : HOURLY NON-EXEMPT OV
Type information, press Enter.

Type (2)	Hours	Date Work	Job	Project	Ord Number	Shf (2)	Doll
OC	300	203					
OC	400	205					
RG	1000	205					
RG	1000	206					
HC	1000	207					
HC	1000	208					
SE	4000	200					

Jacquelyn Paschal
Operations Administrative Assistant
Homestead Police Department
Office: 305-224-5551
Fax: 305-247-1894

jpaschal@homesteadpolice.com

Please consider the environment before printing this e-mail.

~Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public-records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.~

Jacquelyn Paschal

From: Carmen White
Sent: Thursday, February 13, 2014 11:02 AM
To: Priscilla Thompson; Jacquelyn Paschal
Cc: Chief Alexander Rolle; Major Kevin Kent; Carmen White
Subject: FW: REFERENCE OFFICER MURGUIDO

Good morning Priscilla & Jackie,

FYI, due to Officer Murguido's injury he will be out for at least 7-days.

Carmen

From: Major Kevin Kent
Sent: Thursday, February 13, 2014 10:35 AM
To: Carmen White
Subject: FW: REFERENCE OFFICER MURGUIDO

fyi

From: Lt. Sheila Johnson
Sent: Wednesday, February 12, 2014 10:50 PM
To: Major Kevin Kent
Cc: Command Staff; Sgt. Tom Surman
Subject: REFERENCE OFFICER MURGUIDO

FYI

Ofc. Murguido was released from the hospital he will be out for at least 7 days with his knee injury. I have entered him in the system as Workers Comp. His motorcycle has been stored in the shed south lot. Someone will need to make contact with Officer Murguido tomorrow and let him know to get in touch with Priscilla at HR she will need to speak with him. I was unable to make phone contact with him tonight. I have also spoken with Priscilla she is aware that I am working on the paperwork for the accident which I will forward as soon as it is complete.

Thank you,

Lt. Sheila A. Johnson
Homestead Police Department
Uniform Patrol Division
4 South Krome Avenue
Homestead, FL 33030
Police Department: 305-247-1535
Office: 305-224-5326
Cell: 305-972-0637

Danny Avedano

From: Jacquelyn Paschal [Jacquelyn.Paschal@homesteadpolice.com]
Sent: Monday, February 17, 2014 2:50 PM
To: Priscilla Thompson; Danny Avedano
Cc: Sgt. Tom Surman
Subject: Murguido, A Coded WC w/e 02/16

Jacquelyn Paschal
Operations Administrative Assistant

Homestead Police Department

Office: 305-224-5551

Fax: 305-247-1894

jpaschal@homesteadpolice.com

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Danny Avedano

From: Jacquelyn Paschal [Jacquelyn.Paschal@homesteadpolice.com]
Sent: Monday, February 24, 2014 4:23 PM
To: Priscilla Thompson; Danny Avedano
Cc: Sgt. Tom Surman
Subject: Murguido, Alejandro Coded W/C w/e 02/23



PR600UB1

Employee : MU
Pay period : WE
Position : PO
Overtime status : HO
Type information, press Enter.

Type	Hours (2)	Date Work mmdd	Work Order	Job Order
------	-----------	----------------	------------	-----------

HV	800	217		
WC	1000	219		
WC	1000	220		
WC	1000	221		
WC	1000	222		

48.00

F3=Exit F4=Prompt F5=Year
F9=Alt data F11=Accr

Jacquelyn Paschal
Operations Administrative Assistant
Homestead Police Department
Office: 305-224-5551
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jpaschal@homesteadpolice.com

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Danny Avedano

From: Jacquelyn Paschal [Jacquelyn.Paschal@homesteadpolice.com]
Sent: Monday, February 24, 2014 4:22 PM
To: Danny Avedano
Subject: FW: Officer Murguido - PHC visit on 2/21/14
Attachments: DOC022414.pdf

-----Original Message-----

From: Carmen White
Sent: Monday, February 24, 2014 3:53 PM
To: Priscilla Thompson
Cc: Command Staff; Sgt. Tom Surman; Jacquelyn Paschal; Carmen White
Subject: Officer Murguido - PHC visit on 2/21/14

Priscilla,

Attached above is the Physicians Health Clinic doctor's note for Officer Murguido's office visit on 2/21/14.

Carmen

-----Original Message-----

From: Toshiba Chiefs Office [mailto:HPDSCANUSER@homesteadpolice.com]
Sent: Monday, February 24, 2014 3:25 PM
To: Carmen White
Subject: Scanned from ChiefsOffice 02/24/2014 15:24

Scanned from ChiefsOffice.

Date: 02/24/2014 15:24

Pages:2

Resolution:200x200 DPI

Danny Avedano

From: Jacquelyn Paschal [Jacquelyn.Paschal@homesteadpolice.com]
Sent: Tuesday, March 04, 2014 10:16 AM
To: Priscilla Thompson
Cc: Danny Avedano; Sgt. Tom Surman
Subject: Coded W/C w/e 03/02/14- Murguido, Alejandro

Jacquelyn Paschal
Operations Administrative Assistant
Homestead Police Department
Office: 305-224-5551
Fax: 305-247-1894

jpaschal@homesteadpolice.com

Please consider the environment before printing this e-mail.

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